IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 22ND AUGUST 2006 / 31ST SRAVANA 1928

ST.Rev..No. 247 of 2003()

TA.350/2002 of S.T.A.T.ADDL.BENCH,ERNAKULAM
.....

PETITIONER/REVISION PETITIONER

VARKEY PATHRISE AND SONS,
CONTRACTORS, PALAL HOUSE, KUSUMAGIRI P.O.,
KOCHI 682 030

BY ADV. SRI.P.V.BABY

RESPONDENTS: RESPONDENT

STATE OF KERALA.

BY GOVERNMENT PLEADER SRI.V.V.ASOKAN

THIS SALES TAX REVISION HAVING COME UP FOR ADMIS ON 22/08/2006, THE COURT THE SAME DAY PASSED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR & K.M.JOSEPH, JJ.

.....

S.T.R.V. No.247 of 2003

.....

Dated this the 22nd day of August, 2006.

JUDGMENT

Ramachandran Nair, J.

Heard counsel for the petitioner and the Special Government Pleader. The issue raised is whether the Tribunal was justified in disallowing exemption on transportation charges claimed by the petitioner for transport of river sand, rubble etc., to the construction site for execution of work. The petitioners are PWD contractors engaged in execution of work in terms of tender conditions. It is seen that the cost of river sand and rubble being exempted was allowed as deduction along with cost of departmentally supplied materials. However, petitioner's case is that the vehicles used for transport of materials are owned by the petitioner and so much so, the petitioner has accounted transportation cost separately along with cost of materials. Petitioner's case is transportation cost being cost of the material should be allowed as deduction. Even though the Tribunal has not discussed the details, we find from the order of the Assessing Officer that claims are not in tune with the tender conditions and we also find in the statement that almost equal amount of value of goods is claimed towards transportation cost. We do not find any provision in Section 5(c) of the KGST Act providing for deduction of transportation cost while determining taxable turnover on works contract. We,

therefore, find no ground to interfere with the order of the Tribunal in revision. The Sales Tax Revision Case is accordingly dismissed.

C.N.RAMACHANDRAN NAIR
Judge

K.M.JOSEPH
Judge

pms

C.N.RAMACHANDRAN NAIR &
K.M.JOSEH, JJ.

T.R.C. No. of 200

JUDGMENT

Dated